



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION
312 North Spring Street, Room G-8 ✓
Los Angeles, CA 90012
Tel: (213) 894-3535

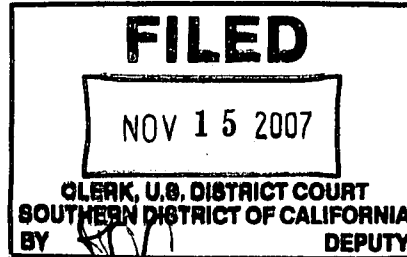
SOUTHERN DIVISION
411 West Fourth Street, Suite 1053
Santa Ana, CA 92701-4516
(714) 338-4750

EASTERN DIVISION
3470 Twelfth Street, Room 134
Riverside, CA 92501
(951) 328-4450

SHERRI R. CARTER
District Court Executive and
Clerk of Court

November 6, 2007

Clerk, United District Court
Southern District of California
940 Front Street
San Diego, CA 92101



2254	✓	1983
FILING FEE PAID		
Yes		No ✓
HFP MOTION FILED		
Yes	✓	No
COPIES SENT TO		
Court	✓	ProSe

Re: Transfer of our Civil Case No. CV 07-6865-GAF (JTL)

Case Title: Jesse Rivas v. A. Hedgpath

Dear Sir/Madam:

An order having been made transferring the above-numbered case to your district, we are transmitting herewith our entire original file in the action, together with certified copies of the order and the docket. Please acknowledge receipt of same and indicate below the case number you have assigned to this matter on the enclosed copy of this letter and return it to our office. Thank you for your cooperation.

Very truly yours,

Clerk, U.S. District Court

By VERONICA McKAMIE *Veronica McKamie*
Deputy Clerk

cc: All counsel of record

=====

TO BE COMPLETED BY RECEIVING DISTRICT

Receipt is acknowledged of the documents described herein and we have assigned this matter case number CV: _____

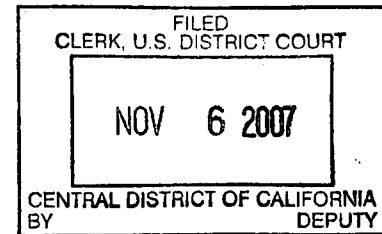
'07CV 2196 JM ... BLM

Clerk, U.S. District Court

By _____
Deputy Clerk

1 I hereby attest and certify on 11-6-07
2 that the foregoing document is a full, true
3 and correct copy of the original on file in
4 my office, and in my legal custody.

5 CLERK U.S. DISTRICT COURT
6 CENTRAL DISTRICT OF CALIFORNIA
7 Wendell L. McKelvie
8 DEPUTY CLERK



9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA

11 JESSE RIVAS,

12 Petitioner,

13 v.

14 A. HEDGPETH, Warden,

15 Respondent.
16

Case No. CV 07-6865-GAF (JTL)

ORDER TRANSFERRING ACTION TO
UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

17 On October 23, 2007, Jesse Rivas ("Petitioner") filed a Petition for Writ of Habeas
18 Corpus ("Petition"), in which he challenges his San Diego County state court conviction
19 for carjacking, kidnapping, burglary and robbery. (See Petition at 2).

20 Where a petition for writ of habeas corpus is filed by a person in custody under the
21 judgment and sentence of a state court located in a state such as California that contains
22 two or more federal judicial districts, it may be filed in either the judicial district in which
23 the petitioner is presently confined or the judicial district in which he was convicted and
24 sentenced. See 28 U.S.C. § 2241(d). When a habeas petitioner is challenging his
25 underlying conviction or sentence, the district court for the district in which the petitioner
26 was convicted and sentenced is a more convenient forum because of the accessibility of
27 evidence, records and witnesses. Thus, it generally is the practice of the district courts
28 in California to transfer habeas actions questioning state convictions/sentences to the

1 district in which the petitioner was convicted and sentenced. See Laue v. Nelson, 279 F.
2 Supp. 265, 266 (N.D. Cal. 1968).

3 Here, Petitioner challenges a conviction from San Diego County, which is located
4 in the Southern District of California. (See Petition at 2). See 28 U.S.C. § 84(d). Thus,
5 the Petition should have been filed in the United States District Court for the Southern
6 District of California.¹ Therefore, in furtherance of the interest of justice,

7 **IT IS ORDERED** that the Clerk of this Court transfer this matter to the United
8 States District Court for the Southern District of California. See 28 U.S.C. §§ 1406(a),
9 2241(d).

10 **IT IS FURTHER ORDERED** that the Clerk of this Court serve a copy of this
11 Order upon Petitioner and upon the California Attorney General.

12
13 DATED: November 2, 2007

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16 GARY A. FEESE
17 UNITED STATES DISTRICT JUDGE
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25 ¹ Petitioner is currently incarcerated at Kern Valley State Prison, in Kern County, which is located
26 in the Eastern District of California. (See Application to Proceed in Forma Pauperis by a Prisoner, filed
27 concurrently with Petition). See 28 U.S.C. § 84(b). Thus, jurisdiction to entertain the Petition exists in
28 both the Southern District and Eastern District. However, because Petitioner challenges his conviction
in San Diego County state court, any and all records, witnesses and evidence necessary for the resolution
of Petitioner's contentions are more readily available in San Diego County. See Laue, 279 F. Supp. at
266.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA (Western Division - Los Angeles)
CIVIL DOCKET FOR CASE #: 2:07-cv-06865-GAF-JTL

Jesse Rivas v. A Hedgpeth
Assigned to: Judge Gary A. Feess
Referred to: Magistrate Judge Jennifer T. Lum
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 10/23/2007
Date Terminated: 11/06/2007
Jury Demand: None
Nature of Suit: 530 Habeas Corpus (General)
Jurisdiction: Federal Question

Petitioner**Jesse Rivas**

I hereby attest and certify on 11-6-07
that the foregoing document is a full, true
and correct copy of the original on file in
my office, and in my legal custody.

CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
Michelle R. McKee
DEPUTY CLERK



represented by **Jesse Rivas**
CDC J-90853
Kern Valley State Prison
P O Box 5103
Delano, CA 93216
PRO SE

V.

Respondent**A Hedgpeth**

Date Filed	#	Docket Text
10/23/2007	<u>1</u>	PETITION for Writ of Habeas Corpus by a Person In State Custody (28:2254). Case assigned to Judge Gary A. Feess and referred to Magistrate Judge Jennifer T. Lum. (Filing fee \$ 5. DUE.), filed by Petitioner Jesse Rivas. (et) (Entered: 10/29/2007)
10/23/2007	<u>2</u>	NOTICE OF REFERENCE TO A U.S. MAGISTRATE JUDGE. Pursuant to the provisions of the Local Rules, the within action has been assigned to the calendar of Judge Gary A. Feess and referred to Magistrate Judge Jennifer T. Lum to consider preliminary matters and conduct all further matters as appropriate. The Court must be notified within 15 days of any change of address. (et) (Entered: 10/29/2007)
10/23/2007	<u>3</u>	EX-PARTE MOTION for Appointment of Counsel filed by Petitioner Jesse Rivas. (et) (Entered: 10/29/2007)
10/30/2007	<u>4</u>	ORDER REQUIRING ANSWER/RETURN TO PETITION. ORDER by Magistrate Judge Jennifer T. Lum that Respondent A Hedgpeth file answer to the petition not later than 12/14/2007. Traverse due by 1/14/2008 (vm) (Entered: 11/02/2007)
11/01/2007	<u>5</u>	MINUTES OF IN CHAMBERS ORDER VACATING ORDER REQUIRING RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS held before Judge Jennifer T. Lum : The Court hereby vacates its Order Requiring Response to Petition for Writ of Habeas Corpus filed October 30, 2007.re: Order Requiring Return/Answer to Petition (45 days) <u>4</u> . (vm) (Entered: 11/02/2007)
11/06/2007	<u>6</u>	ORDER by Judge Gary A. Feess transferring case to United States District Court for the Southern District of California. Original file, certified copy of the transfer order and docket sheet sent. (MD JS-6. Case Terminated.) (vm) (Entered: 11/06/2007)
11/06/2007		TRANSMITTAL of documents: original file, certified copy of order and docket sheet to Southern District of California. (vm) (Entered: 11/06/2007)

PACER Service Center			
Transaction Receipt			
11/06/2007 12:44:49			
PACER Login:	us3877	Client Code:	
Description:	Docket Report	Search Criteria:	2:07-cv-06865-GAF-JTL
Billable Pages:	1	Cost:	0.08

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CIVIL MINUTES - GENERAL

Case No. CV 07-6865-GAF (JTL)

Date November 1, 2007

Title JESSE RIVAS v. A. HEDGPETH

Present: The Honorable Jennifer T. Lum, United States Magistrate Judge

Debra Plato

Deputy Clerk

Court Reporter / Recorder

Tape No.

Attorneys Present for Plaintiffs:

Attorneys Present for Defendants:

None Present

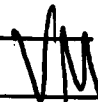
None Present

Proceedings: **(In Chambers) ORDER VACATING ORDER REQUIRING
RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

The Court hereby vacates its Order Requiring Response to Petition for Writ of Habeas Corpus filed October 30, 2007.

cc: Parties

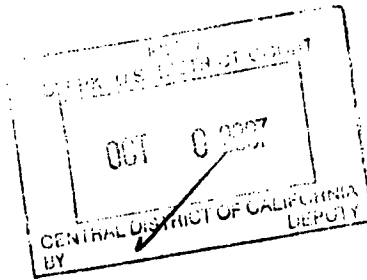
Initials of Deputy Clerk



I HEREBY CERTIFY THAT THIS DOCUMENT WAS SERVED BY
FIRST CLASS MAIL POSTAGE, REPAID TO ALL COUNSEL
(OR PARTY) AT THEIR RESPECTIVE MOST RECENT ADDRESS OF
RECORD IN THIS ACTION ON THIS DATE

DATED: 10/30/07

DEPUTY CLERK



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JESSE RIVAS,

Petitioner,

v.

A. HEDGPETH, Warden,

Respondent.

Case No. CV 07-6865-GAF (JTL)

ORDER REQUIRING RESPONSE TO
PETITION FOR WRIT OF HABEAS
CORPUS

On October 23, 2007, Jesse Rivas ("Petitioner") filed a Petition for Writ of Habeas Corpus ("Petition"). In order to facilitate the just, speedy, and inexpensive determination of this action, **IT IS ORDERED** that:

1. The Clerk of this Court shall promptly (a) serve a copy of the Petition and a copy of this Order on Respondent and the Attorney General for the State of California, or his authorized agent; and (b) serve a copy of this Order on Petitioner.

2. Within 14 days, Respondent shall file and serve a Notice of Appearance, notifying the Court of the name of the attorney who will have principal charge of the case, together with the address where the attorney may be served, and the attorney's telephone and fax number. This information is important to assure accurate service of court documents.

///

3. If Respondent contends that the Petition can be decided without the Court reaching the merits of Petitioner's claims (e.g., because the Petition is barred by the applicable statute of limitations or is subject to dismissal under Rule 9 of the Rules Governing Section 2254 Cases in the United States District Courts), Respondent shall file a Motion to Dismiss ("Motion") within thirty (30) days of the date of this Order.¹ The Motion to Dismiss shall not address the merits of Petitioner's claims. At the time the Motion to Dismiss is filed, Respondent shall lodge with the Court all records bearing on Respondent's contentions in the Motion to Dismiss.²

4. If Respondent files a Motion to Dismiss, Petitioner shall file his Opposition, if any, to the Motion within twenty (20) days of the date of service thereof. At the time the Opposition is filed, Petitioner shall lodge with the Court any records not lodged by Respondent that Petitioner believes may be relevant to the Court's determination of the Motion. Respondent shall file a Reply, if any, within ten (10) days of the service of the Opposition. If the Motion is denied, the Court will afford Respondent adequate time to answer Petitioner's claims on the merits.

5. If Respondent does not contend that the Petition can be decided without the Court reaching the merits of Petitioner's claims, then Respondent shall file and serve an Answer to Petition within forty-five (45) days of the date of this Order.³ At

¹ If Respondent contends that some or all of Petitioner's claims are procedurally defaulted, such contentions should not be made in a Motion to Dismiss, but rather should be made in Respondent's Answer to the Petition, which shall also address the claims on their merits.

² If Respondent files a Motion to Dismiss on the ground that Petitioner has failed to exhaust state court remedies as to any ground for relief alleged in the Petition, Respondent shall specify the state court remedies still available to Petitioner and calculate the time remaining on the applicable statute of limitations period (even if Respondent does not argue the Petition is untimely).

³ As stated above, if Respondent contends that some or all of Petitioner's claims are procedurally defaulted, Respondent may raise such arguments in the Answer to the Petition. Respondent shall also, however, address these claims on their merits.

If Respondent contends for the first time in the Answer that Petitioner has failed to exhaust state court remedies as to any ground for relief alleged in the Petition, Respondent shall specify the state court

1 the time the Answer is filed, Respondent shall lodge with the Court all records bearing
2 on the merits of Petitioner's claims, including the briefs specified in Rule 5(d) of the
3 Rules Governing Section 2254 Cases in the United States District Courts. The Answer
4 shall also specifically address the necessity for an evidentiary hearing to resolve any
5 issue.

6 6. Petitioner may file a single Reply responding to matters raised in the
7 Answer within thirty (30) days of the date of service thereof. Any Reply filed by
8 Petitioner (a) shall state whether Petitioner admits or denies each allegation of fact
9 contained in the Answer; (b) shall be limited to facts or arguments responsive to matters
10 raised in the Answer; and (c) shall not raise new grounds for relief that were not asserted
11 in the Petition. Grounds for relief withheld until the Reply will not be considered, unless
12 the Court grants leave to amend the Petition. No Reply shall exceed twenty-five (25)
13 pages in length absent advance leave of Court for good cause shown.

14 7. A request by a party for an extension of time within which to file any
15 of the pleadings required hereunder will be granted only upon a showing of good cause,
16 and should be made in advance of the due date of the pleading. Any such request shall
17 be accompanied by a declaration explaining why an extension of time is necessary and
18 by a proposed form of order granting the requested extension.

19 8. Unless otherwise ordered by the Court, this case shall be deemed
20 submitted on the day following the date Petitioner's Reply to the Motion to Dismiss
21 and/or Reply to the Answer is due.

22 9. Every document delivered to the Court must include a certificate of
23 service attesting that a copy of such document was served on opposing counsel (or on the
24 opposing party, if such party is not represented by counsel). Any document delivered to
25 ///

26
27
28 remedies still available to Petitioner and calculate the time remaining on the applicable statute of
limitations period (even if Respondent does not argue the Petition is untimely).

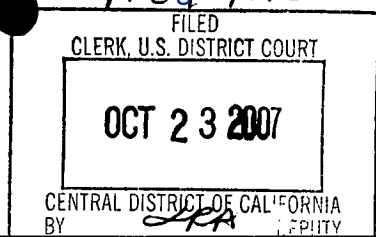
1 the Court without a certificate of service may be returned to the submitting party and
2 without consideration by the Court.

3 10. Petitioner shall immediately notify the Court and counsel for
4 Respondents of any change of Petitioner's address. If Petitioner fails to keep the Court
5 informed of where Petitioner may be contacted, this action will be subject to dismissal
6 for failure to prosecute. See also Local Rule 41-6.

7 IT IS SO ORDERED.

8 DATED: October 29, 2007

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11 JENNIFER T. LUM
12 UNITED STATES MAGISTRATE JUDGE
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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

JESSE RIVAS

PLAINTIFF(S)

V.

A. HEDGPETH

DEFENDANT(S)

CASE NUMBER

CV07- 6865 GAF (JTL)

**NOTICE OF REFERENCE TO A
UNITED STATES MAGISTRATE JUDGE
(Petition for Writ of Habeas Corpus)**

Pursuant to General Order 07-02, the within action has been assigned to the calendar of the Honorable Gary A. Feess, U.S. District Judge. Pursuant to General Order 05-07, the within action is referred to U.S. Magistrate Judge Jennifer T. Lum, who is authorized to consider preliminary matters and conduct all further hearings as may be appropriate or necessary. Thereafter, unless the Magistrate Judge determines that an evidentiary hearing is required, the Magistrate Judge shall prepare a report and recommendation and file it with the Clerk of the Court which may include proposed findings of fact and conclusions of law where necessary or appropriate, and may include a proposed written order or judgment, which shall be mailed to the parties for objections.

Pleadings and all other matters to be called to the Magistrate Judge's attention shall be formally submitted through the Clerk of the Court.

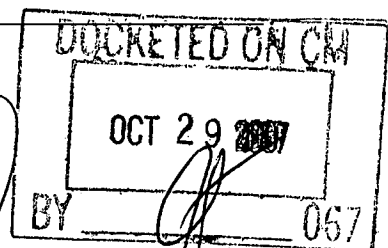
The Court must be notified within fifteen (15) days of any address change. If mail directed by the clerk to your address of record is returned undelivered by the Post Office, and if the Court and opposing counsel are not notified in writing within fifteen (15) days thereafter of your current address, the Court may dismiss the petition with or without prejudice for want of prosecution.

Clerk, U.S. District Court

October 23, 2007

Date

By LRAYFORD
Deputy Clerk





SHERRI R. CARTER

District Court Executive
and Clerk of Court

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION
312 North Spring Street, Room G-8 Los
Angeles, CA 90012
Tel: (213) 894-7984

SOUTHERN DIVISION
411 West Fourth Street, Suite 1053
Santa Ana, CA 92701-4516
(714) 338-4570

EASTERN DIVISION
3470 Twelfth Street, Room 134
Riverside, CA 92501
(951) 328-4450

Tuesday, October 23, 2007

JESSE RIVAS
J-90853
P.O. BOX 5103
DELANO, CALIFORNIA 93216

Dear Sir/Madam:

A ☒ Petition for Writ of Habeas Corpus was filed today on your behalf and assigned civil case number
CV07- 6865 GAF (JTL)

A ☐ Motion pursuant to Title 28, United States Code, Section 2255, was filed today in criminal case
number and also assigned the civil case number

Please refer to these case numbers in all future communications.

Please Address all correspondence to the attention of the Courtroom Deputy for:

☐ District Court Judge _____

☒ Magistrate Judge Jennifer T. Lum

at the following address:

☒ U.S. District Court
312 N. Spring Street
Civil Section, Room G-8
Los Angeles, CA 90012

☐ Ronald Reagan Federal
Building and U.S. Courthouse
411 West Fourth St., Suite 1053
Santa Ana, CA 92701-4516
(714) 338-4750

☐ U.S. District Court
3470 Twelfth Street
Room 134
Riverside, CA 92501

The Court must be notified within fifteen (15) days of any address change. If mail directed to your address of record is returned undelivered by the Post Office, and if the Court and opposing counsel are not notified in writing within fifteen (15) days thereafter of your current address, the Court may dismiss the case with or without prejudice for want of prosecution.

Very truly yours,

Clerk, U.S. District Court

By: LRAYFORD
Deputy Clerk



SHERRI R. CARTER

District Court Executive
and Clerk of Court

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION
312 North Spring Street, Room G-8 Los
Angeles, CA 90012
Tel: (213) 894-3535

SOUTHERN DIVISION
411 West Fourth Street, Suite 1053
Santa Ana, CA 92701-4516
(714) 338-4570

EASTERN DIVISION
3470 Twelfth Street, Room 134
Riverside, CA 92501
(951) 328-4450

Tuesday, October 23, 2007

JESSE RIVAS
J-90853
P.O. BOX 5103
DELANO, CALIFORNIA 93216

Dear Sir/Madam:

Your petition has been filed and assigned civil case number CV07- 6865 GAF (JTL)

Upon the submission of your petition, it was noted that the following discrepancies exist:

- ☒ 1. You did not pay the appropriate filing fee of \$5.00. Submit a cashier's check, certified bank check, business or corporate check, government issued check, or money order drawn on a major American bank or the United States Postal Service payable to 'Clerk U.S. District Court'. If you are unable to pay the entire filing fee at this time, you must sign and complete this court's Prisoner's Declaration In Support of Request to Proceed In Forma Pauperis in its entirety. The Clerk's Office will also accept credit cards (Mastercard, Visa, Discover, American Express) for filing fees and miscellaneous fees. Credit card payments may be made at all payment windows where receipts are issued.
- ☒ 2. The Declaration in Support of Request to Proceed in Forma Pauperis is insufficient because:
- ☒ (a) You did not sign your Declaration in Support of Request to Proceed in Forma Pauperis.
- ☒ (b) Your Declaration in Support of Request to Proceed in Forma Pauperis was not completed in its entirety.
- ☐ (c) You did not submit a Certificate of Prisoner's Funds completed and signed by an authorized officer at the prison.
- ☐ (d) You did not use the correct form. You must submit this court's current Declaration in Support of Request to Proceed in Forma Pauperis.
- ☐ (e) Other: _____

Enclosed you will find this court's current Prisoner's Declaration in Support of Request to Proceed in Forma Pauperis, which includes a Certificate of Funds in Prisoner's Account Form.

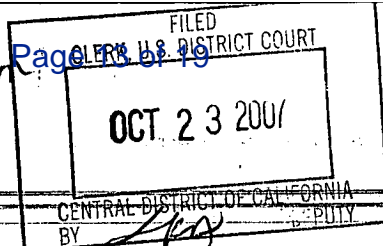
Sincerely,

Clerk, U.S. District Court

LRAYFORD

By: _____

Deputy Clerk



AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court

District

(530)

CV-07-6845 SRF (JTL)

Name

Jesse Rivas

Prisoner No.

J-90853

Case No.

0028430

Place of Confinement

Name of Petitioner (include name under which convicted)

JESSE RIVAS

Name of Respondent (authorized person having custody of petitioner)

v.

The Attorney General of the State of:

PETITION

1. Name and location of court which entered the judgment of conviction under attack San Diego County

2. Date of judgment of conviction _____

3. Length of sentence Life w/ Possibility of parole + 13 years 4 months4. Nature of offense involved (all counts) Carjacking, Kidnapping, Burglary,
Robbery. (4 counts)

5. What was your plea? (Check one)

(a) Not guilty ☒(b) Guilty ☐(c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

6. If you pleaded not guilty, what kind of trial did you have? (Check one)

(a) Jury ☒(b) Judge only ☐

7. Did you testify at the trial?

Yes ☒ No ☐

8. Did you appeal from the judgment of conviction?

Yes ☒ No ☐

DOCKETED ON CM

OCT 29 2007

BY

067

AO 241 (Rev. 5/85)

9. If you did appeal, answer the following:

(a) Name of court _____

(b) Result Denied

(c) Date of result and citation, if known _____

(d) Grounds raised _____

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

(1) Name of court _____

(2) Result _____

(3) Date of result and citation, if known _____

(4) Grounds raised _____

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

(1) Name of court _____

(2) Result _____

(3) Date of result and citation, if known _____

(4) Grounds raised _____

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☐ No ☒

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court _____

(2) Nature of proceeding _____

(3) Grounds raised _____

AO-241 (Rev. 5/85)

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result

(6) Date of result

(b) As to any second petition, application or motion give the same information:

(1) Name of court

(2) Nature of proceeding

(3) Grounds raised

(4) Did you receive an evidentiary hearing on your petition, application or motion?

Yes ☐ No ☒

(5) Result

(6) Date of result

(c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☐ No ☒(2) Second petition, Yes ☐ No ☒(d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

AO 241 (Rev. 5/85)

For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, you should raise in this petition all available grounds (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: conviction obtained by use of coerced-
confession.

Supporting FACTS (state briefly without citing cases or law) I WAS INTERVIEWED AND TAPED
WHEN I TOLD THE DETECTIVES I DIDNT KNOW ANYTHING
ABOUT THESE CRIMES. ONLY AFTER THEM PRESSING ME
AND GIVING ME INFORMATION ABOUT WHAT HAPPENED
THEN I SAID I DID IT. AFTER THEY TOLD ME I
WOULD ONLY GET 8 TO 10 YEARS.

B. Ground two: conviction obtained by a violation of the
privilege against self-incrimination.

Supporting FACTS (state briefly without citing cases or law): I TOLD THE DETECTIVES
I DID IT, WHEN I DIDNT, JUST TO GET THE
INTERVIEW OVER WITH. AT TRIAL WHEN I
TESTIFIED I TOLD THE WHOLE STORY.

AO 241 (Rev. 5/85)

- C. Ground three: conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
 Supporting FACTS (state briefly without citing cases or law):

THERE WAS A MALE AND FEMALE PULLED OVER IN THE CAR THAT WAS CARJACKED. THE FEMALE CAN TESTIFY I WAS NOT THE PERSON IN THE CAR WITH HER.

- D. Ground four: conviction obtained by action of a grand or petit jury which was unconstitutional select & impaired
 Supporting FACTS (state briefly without citing cases or law):

I TESTIFIED I DID NOT CAR JACK THE CAR. I TOLD WHO I GOT THE CAR FROM. NOBODY PICKED ME OUT OF A PHOTO LINE UP. I ADMITTED TO THE BURGLARY THATS WHY THEY HAD ONE FINGERPRINT ON A PIECE OF PROPERTY IN THE CAR.

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state briefly what grounds were not so presented, and give your reasons for not presenting them:

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?
 Yes ☐ No ☒

15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing _____

(b) At arraignment and plea _____

AO 241 (Rev. 5/85)

(c) At trial _____

(d) At sentencing _____

(e) On appeal _____

(f) In any post-conviction proceeding _____

(g) On appeal from any adverse ruling in a post-conviction proceeding _____

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes ☐ No ☒

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future: _____

(b) Give date and length of the above sentence: _____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed

(date)

Jesse Rivas
Signature of Petitioner

JS44

(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

I (a) PLAINTIFFS

Jesse Rivas

2254	DEFENDANTS	1983
FILING FEE PAID		
Yes	No	✓
HFF MOTION FILED		
Yes	No	✓
COPIES SENT TO		
Court	Attorney	Process

A. Hedgpeth, Warden

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Kern
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Court Attorney Process

Jesse Rivas
PO Box 5103
Delano, CA 93216
J-90853

'07 CV 2196 JM BLM

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | PT | DEF | PT | DEF |
|----------------------------|----------------------------|----------------------------|----------------------------|
| <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
- Citizen of This State Incorporated or Principal Place of Business in This State
- Citizen of Another State Incorporated and Principal Place of Business in Another State
- Citizen or Subject of a Foreign Country Foreign Nation

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. 2254

V. NATURE OF SUIT (PLACE AN x IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> Marine <input type="checkbox"/> Miller Act <input type="checkbox"/> Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans Benefits <input type="checkbox"/> 160 Stockholders Suits <input type="checkbox"/> Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury-Medical Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 RR & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. <input type="checkbox"/> Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (13958) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(e)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reappointment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Tort to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus <input checked="" type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights			

VI. ORIGIN (PLACE AN x IN ONE BOX ONLY)

- ☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☒ 5 Transferred from another district (specify) CENTRAL CA ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23

DEMAND \$

Check YES only if demanded in complaint:

JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE

Docket Number

DATE 11/15/2007

SIGNATURE OF ATTORNEY OF RECORD

R. M. Miller